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TO: Group Director Peter Wong FAX NO: 571-273-8300

REFERENCE: 09/184,738

MESSAGE:

Number of Pages Including Cover Sheet: 9 Please Acknowledge: X YES NO

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April 25, 2006

Ms. Peggy Focarino
Deputy Commissioner for Patent Operations
Unites States Patent & Trademark Office
Alexandria, VA 22313-1450Re: Application Serial No. 09/184,738

Dear Ms. Focarino:

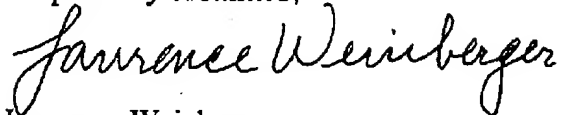
I am writing you because the above referenced application has now been prosecuted in the USPTO for 7 ½ years without final resolution. One year ago I wrote (see attachment) the Technology Center 2100 group director (with a copy to you) calling attention to the fact that the first examiner's errors and series of non-final rejections had unnecessarily protracted the examination period for several years. Subsequent to my letter, the application was reassigned to a skilled examiner. That examiner informed me over two months ago that he has allowed the claims, but that all allowances in his group are being quality reviewed. My clients have no argument with the PTO conducting the most stringent review since they are confident in their claims.

However, my clients are also acutely aware that the protracted examination is costing them valuable potential patent term since the application is a continuation from a parent application dated November 16, 1994. If the patent were to issue tomorrow, and no extensions of term were available, it would expire in 2014 with my clients enjoying patent rights for a shortened term of only eight years. Considering the length of time the USPTO has had this application, I respectfully request that

Ms. Peggy Focarino
April 25, 2006
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you have this application placed in line for review before other applications with more recent priority dates.

Respectfully submitted,



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Attachments

cc: Mr. Peter Wong
Ms. Kakali Chaki

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March 4, 2005

Group Director Peter Wong
Unites States Patent & Trademark Office
Randolf Building 4C09
41 Dulaney Street
Alexandria, VA 22313-1450Re: Application Serial No. 09/184,738

Dear Sir:

I am taking the unusual step of writing you and copying this letter to Ms. Focarino because I believe that the above referenced prosecution reflects both patent office administrative problems and group art technological problems. This application has been prosecuted for 6 ½ years, including an interview with the examiner and his SPE in January, 2003, without substantial progress being made either towards allowance or a rejection that could be appealed. Attached is an outline of the prosecution history for your review. I would very much appreciate speaking directly to you about this matter without the examiner involved since, as you can see, after 5 office actions he has yet again verbally indicated that he has additional substantive concerns that he has yet to specify. The piecemeal citing and mooting of rejections is costing my client valuable potential patent term and, as I understand it, is not within the guidelines for patent office examination procedure.

I respectfully seek your personal review and examination of this application. Hopefully, we can move to allowance since no invalidating prior art has been identified during this lengthy prosecution. Please call me at your earliest convenience.

Respectfully submitted,

Laurence Weinberger
Reg. No. 27,965

cc: Ms. Margaret A. Focarino

Outlined below is a summary history of the long and circuitous prosecution of the application during which the examiner has continually raised new grounds for rejection - all of which grounds the applicants have addressed and overcome. Applicants have spent a great deal of time and effort responding in great detail to the rejections and believe that it is now time that the office conclude this examination and issue applicants' patent.

11-02-1998	Application Filed
06-05-2001	First Office Action - Non-Final - Improper Rejection Claims rejected under 35 U.S.C. 112 for indefiniteness. Claims rejected under 35 U.S.C. 12(b) as being anticipated by Gudmundson (US Pat. No. 5,680,1997)
07-xx-2001	Notification to Office of Improper Rejection. Applicants' attorney contacted examiner to indicate that the Gudmunson reference had a priority date subsequent to the priority date of the application and could not serve as a 102(b) reference.
07-17-2001	The examiner indicted by telephone message that the action would be withdrawn.
11-27-2001	Applicants' attorney faxed the examiner indicating that the 6 month response date was approaching and applicants had not received notice of withdrawal of the previous office action from the examiner.
11-28-2001	By e-mail the examiner indicated that a new non-final office action would be issued withdrawing the 102(b) rejection.
12-06-2001	Second Office Action - Non-Final Claims rejected under 35 U.S.C. 112 for indefiniteness. Claims rejected under 35 U.S.C. 102 as being anticipated by Smith (US Pat. No. 5,485,618)
05-06-2002	Applicants' Response. Applicants responded to the 12-06-2001 rejections. Applicants amended the claims to in response to the 112 rejections for indefiniteness. With respect to the 102 rejections, applicants first presented background on object oriented programming and then in a lengthy and detailed analysis teaching the differences achieved by object oriented programming, applicants addressed each point raised by the examiner clearly demonstrating that Smith did not anticipate applicants invention.
06-17-2002	Third Office Action - Non-Final - Improper Rejection Rejections under 35 U.S.C. 112 were withdrawn in view of applicants' amendments to the claims.

Rejections under 102 in view of Smith were considered moot in view of new grounds for rejection.

Claims newly rejected under 35 U.S.C. 102(e) as being anticipated by Ferri (US Pat. No. 5,974,258) and Minard (US Pat. No. 6,247,020).

- 07-xx-2002 **Notification to Office of Improper Rejection.** Applicants attorney again contacted the examiner by telephone to indicate that the Ferri and Minard references also had priority dates subsequent to the priority date of the application and could not serve as a 102(e) reference. The examiner indicated he would review the file. Applicants also requested an interview with the examiner and his SPE.
- 08-xx-2002 The examiner contacted applicants' attorney and agreed that the references postdated the priority date to which the application was entitled.
- 12-xx-2002 During further discussions in which applicants' attorney sought a new office action, the examiner indicated that he might also include in such office action a double patenting rejection. The examiner further indicated that he could not verbally withdraw the previous office action and that his SPE had advised the examiner to require a written response before issuing the new action.
- 12-17-2002 **Applicants' Response.** Applicants responded to the 06-17-2002 rejections. Applicants pointed out that the application was entitled to a priority claim to a date preceding both the Ferri and Minard references which could not, therefore, serve as 102(e) references. After summarizing the procedural status of the case, applicants attached a written request for an interview.
- 01-28-2003 **Interview.** Interview with examiner and primary examiner Morse. Applicant provided and demonstrated an executable copy of the software invention described in the application as well as explanatory materials to the examiners. Examiner Morse clearly understood the object oriented programming nature of the invention. The examiner presented the results of a further search he had conducted but no anticipating art was demonstrated. Applicants emphasized that under the new 20 year term significant potential patent life had been wasted by the improper prior art rejections as well as the necessity of explaining object oriented programming. The examiners agreed that applicants could submit supplemental claims which would be examined when the examiner again reviewed the application. The examiner was to conduct a further search.
- 02-03-2003 **Supplemental Claims Submitted.** Applicants submitted supplemental claims along with appropriate payment.

04-14-2003

Fourth Office Action – Non-Final

Applicants' supplemental claims were added.

Rejections under 102 in view of Ferri and Minard were considered moot in view of new grounds for rejection.

Claims newly rejected under 35 U.S.C. 102(a) as being anticipated by Gurewich et al. (Visual Basic) and Marmelstein (US Pat. No. 5,187,788).

10-14-2003

Applicants' Response. Applicants responded to the 04-14-2003 rejections. With respect to the 102(a) rejections, applicants first summarized the Visual Basic environment described in Gurewich and then proceeded to distinguish the object oriented programming environment and invention of applicants' application from the teaching of Gurewich. In a lengthy and detailed response, Applicants addressed each specific rejection raised by the examiner and clearly demonstrated why Gurewich did not anticipate applicants' invention. The examiner rejected several claims under U.S.C. 102(b) citing Marmelstein. Applicants clearly distinguished their invention over the Marmelstein citation. Finally, applicants canceled several claims, which after further consideration, applicants concluded had been presented too broadly.

01-12-2004

Fifth Office Action – Non-Final

Rejections under 102(a) in view of Gurewich and 102(b) in view of Marmelstein were considered moot in view of new grounds for rejection.

The examiner raised several new grounds for objection and rejection:

- 1) the examiner indicated that applicants had not complied with 35 U.S.C. 120 to receive the benefit of the earlier filing date;
- 2) objection was made to misspellings and failure to cancel dependent claims which depended from previously canceled claims;
- 3) claims were rejected under 35 U.S.C. 112 first paragraph for failing to comply with the written description requirement;
- 4) claims were rejected under 35 U.S.C. 112 first paragraph for failing to comply with the enablement requirement;
- 5) claims were rejected under 35 U.S.C. 112 second paragraph as being indefinite.

07-06-2004

Applicants' Response. Applicants responded to the 01-12-2004 objections and rejections:

- 1) applicants responded to the 120 issue raised by the examiner. Applicants pointed out that in a letter accompanying the application filing it was indicated that

- no new matter was added in the application since the features discussed and claimed in the present application were fully disclosed and enabled by the software code filed with the parent case. Consequently, the present application was entitled to the priority date of the parent;
- 2) the claims were amended to overcome the objections;
 - 3) applicants responded that the software code fully describes the invention so as to convey to one skilled in the art that applicants possessed the invention at the time of filing. Applicants further submitted an expert affidavit supporting their position that the written description requirement was met;
 - 4) applicants responded that the software code submitted as part of the application fully enables the invention as claimed. Applicants further noted that the expert affidavit supports their position that the software code fully meets the enablement requirement;
 - 5) applicants amended the claims to overcome the indefiniteness objections.

10-13-2004

Notice to Applicants

The examiner noted that the claim amendments submitted on 07-06-2004 did not comply with the latest version of the Office's requirements for presentation of amendments.

11-15-2004

Applicants' Response. Applicants responded to the 10-13-2004 Notice. Applicants submitted the amended claims presented in the appropriate format required by the Office.

11-09-2004

Telephone Call To Examiner. Given the very slow progress towards issuance the application has undergone, applicants and applicants' attorney contacted the examiner to discuss whether the examiner saw any further obstacles. The examiner raised the possibility of once again examining the issue of a terminal disclosure, but was unsure at the time of the telephone call whether he would address the requirement. The examiner also suggested that the scope of claims might require some rethinking on his part. Finally, the examiner expressed some concern that applicants might yet file additional claims. Applicants did not understand the examiner's concerns on this point.

01-31-2004

Applicant contacted the examiner to determine when the examiner would respond to applicant's response of 11/15/2004. The examiner indicated that he had not received the response until late January and would respond within his allowed two month period. Applicant asked whether

there was anything substantive or whether just minor matters need to be addressed. The examiner indicated he believed he still had concerns and that applicant should have his attorney call.

02-04-200

Applicants' attorney called and left a message for the examiner.

02-11-2004

The examiner left a telephone message for applicants' attorney summarizing his conversation with applicant and indicating that he believed additional issues needed to be addressed.